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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,152	01/04/2001	Andreas Schwager	50N3367/1175	3179

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EXAMINER

BARNES, CRYSTAL J

ART UNIT PAPER NUMBER

2121

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/754,152

**Applicant(s)**

SCHWAGER, ANDREAS

**Examiner**

Crystal J. Barnes

**Art Unit**

2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 1-19 is/are allowed.  
6) ☒ Claim(s) 20 is/are rejected.  
7) ☒ Claim(s) 21-25 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 01 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☒ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The following is a Non-Final Office Action in response to the Amendment received on 11 April 2005. Claims 1, 2, 10 and 12-14 have been cancelled. Claims 3, 11, 15 and 20 have been amended. Claims 3-9, 11 and 15-25 remain pending in this application.

#### *Oath/Declaration*

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not correctly identify the foreign application for patent or inventor's certificate on which priority is claimed pursuant to 37 CFR 1.55.

The PCT application on which priority is claimed should be "PCT/EP99/04538".

#### *Priority*

3. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Europe on 06 July 1998. It is noted, however, that applicant

has not filed a certified copy of the 98 112 500.8, 98 112 499.3 and 98 112 501.6 applications as required by 35 U.S.C. 119(b).

*Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,289,461 to de Nijs.

As per claim 20, the reference discloses a system for managing resources in an electronic network, comprising: a network resource (see column 7 lines 50-53, "workstation 2 (Server)"), coupled to said electronic network ("LAN"), to perform specified functions; a first client ("workstation 1 (Client)"), coupled to said electronic network ("LAN"), to request a primary control ("private session") over said network resource ("workstation 2 (Server)"); and resource manager (see column 7 lines 55-59, "network controller") configured to reserve ("reserve") said

primary control ("private session") over said network resource ("workstation 2 (Server)") for said first client ("workstation 1 (Client)").

*Allowable Subject Matter*

6. Claims 3-9, 11 and 15-19 are allowable.
7. Claims 21-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. The following is a statement of reasons for the indication of allowable subject matter:

As per claim 3, the prior art of record taken alone or in combination fails to teach the controllable device sending a rejection to the second control device working as the secondary controller trying to overrule the first control device working as the primary controller or to the further control device trying to overrule the first control device working as the primary controller, or the second control device, working as the secondary controller, and said rejection including a

list of all primary or secondary controllers, or both the primary and secondary controllers.

As per claim 11, the prior art of record taken alone or in combination fails to teach the first control device being able to reserve the controllable device or pre-empt another control device, via a resource manager included in the network.

As per claim 15, the prior art of record taken alone or in combination fails to teach a resource manager configured to arbitrate between said first controller and said second controller for controlling access to said primary control over said electronic device.

As per claim 21, the prior art of record taken alone or in combination fails to teach a second client coupled to said electronic network seeks said primary control over said network resource, and wherein said resource manager negotiates between said first client and said second client to obtain said primary control over said network resource.

### *Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references are cited to further show the state of the art with respect to resource sharing and arbitration in general:

USPN 6,292,905 B1 to Wallach et al.

USPN 6,272,386 B1 to McLaughlin et al.

USPN 6,092,133 to Erola et al.

USPN 5,966,372 to Wright et al.

USPN 5,572,517 to Safadi

JP Pub. No. 11-195008 A to YOMODA

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Crystal J. Barnes whose telephone number is 571.272.3679. The examiner can normally be reached on Monday-Friday alternate Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 571.272.3687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Cynthia J. Barnes*

CJB

10 May 2005